



刑事個案 Criminal case

提供虛假或誤導性資料以申請牌照 Provision of false or misleading information in licence application

引言

《地產代理條例》（《條例》）55(1)(d)訂明，任何人無合理辯解而在申請批給營業員牌照或牌照續期方面，作出任何在要項上是虛假或具誤導性的陳述或提供任何在要項上是虛假或具誤導性的資料，即屬犯罪。有關罪行，一經循公訴程序定罪，可處第6級罰款及/或監禁一年；如循簡易程序定罪，可處第5級罰款及/或監禁六個月。

Introduction

According to Section 55(1)(d) of the Estate Agents Ordinance (“EAO”), a person, without reasonable excuse, makes any statement or furnishes any information, which is false or misleading in a material particular, in connection, with any application for the grant or renewal of a salesperson’s licence, commits an offence. The offence is punishable on conviction upon indictment by a fine at level six and/or imprisonment for one year or on summary conviction by a fine at level five and/or imprisonment for six months.

事件經過

監管局收到一宗營業員牌照的申請，局方在審批過程中懷疑申請人提交虛假學歷證明。由於表面證據顯示申請人的學歷證明屬虛假文書，違反《條例》第55(1)(d)的規定，局方遂將事件轉介警方跟進。

Incident

The EAA received an application for the grant of a salesperson’s licence, however the EAA suspected that the applicant had submitted false academic qualifications during the vetting process. As the prima facie evidence had shown that the applicant’s academic qualification was a false instrument, which was in breach of section 55(1)(d) of the EAO, the matter had been referred to the Police for follow up action.

結果

警方完成調查後，案件交由裁判法院審理。結果，法院裁定該牌照申請人在申請批給營業員牌照或牌照續期方面，作出任何在要項上是虛假或具誤導性的陳述或提供任何在要項上是虛假或具誤導性的資料的罪名成立，判處其監禁九星期。

如牌照申請人在監管局裁定其個案當日起計的前五年內曾因干犯《條例》下所訂的任何罪行並已就此被判處監禁（不論是否緩刑），其牌照申請一般會被拒絕。

Result

Upon the completion of the investigation by the Police, the case was taken to the Magistrates' Court. As a result, the licence applicant was convicted for the charge of "making statement or furnishing information, which is false or misleading in a material particular, in connection with any application for the grant or renewal of a salesperson's licence" and was sentenced to imprisonment for nine weeks.

If a licence applicant was, within a period of five years prior to the date when his/her case is being determined by the EAA, convicted of any offence under the EAO and in respect of which he/she has been sentenced to imprisonment (whether suspended or not), his/her licence application will normally be refused.



郭德亮測量師
香港房地產代理業聯會榮譽主席
Mr Tony Kwok, MRICS
Honorary Chairman, Hong Kong
Property Agencies Association

■ 業界意見 Comment from the trade

使用虛假文件的後果很嚴重，違反個人誠信，對地產代理來說，誠信尤其重要，加上近年來使用虛假文件行騙的案件增加，相信這次的判決具足夠阻嚇作用，亦可以引起社會對使用虛假文件所帶來的後果的關注。今時今日，公眾若要繼續進修並不困難，政府亦有提供進修資助給公眾，因此實在不應為符合領取牌照的學歷要求而以身試法。

Using false documents could bring serious consequences and it is an act against personal integrity, which is an important quality of estate agents. As the number of fraud cases involving the use of false documents has increased in recent years, I believe that the sentence this time will have a sufficient deterrent effect and will also raise public awareness on the consequences of using false documents.

Nowadays, it is not difficult for the public to pursue continuing education, which the Government also supports by providing continuing education subsidies. Therefore, there is no reason for the public to break the law in order to meet the educational requirements for obtaining a licence.

紀律研訊個案 Disciplinary hearing case

未有遵守盡職審查的指引 Failure to comply with due diligence guidelines

引言

為符合《打擊洗錢及恐怖分子資金籌集條例》的要求，監管局發出有關遵守反洗錢及反恐怖分子資金籌集規定的指引的執業通告（編號18-01(CR)），要求地產代理在與買賣物業的客戶建立業務關係之前，必須進行盡職審查。違反通告內的指引有機會被監管局紀律處分。

Introduction

In order to comply with the requirements of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, the EAA issued a Practice Circular on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements (No. 18-01(CR)) and requires estate agents to conduct customer due diligence before establishing any business relationship with their clients in relation to the sale and purchase of properties. Failing to comply with the guidelines of the Circular may be subject to disciplinary action by the EAA.